

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**KAREEM DAVENPORT,
#M49922,**

Plaintiff,

v.

ANTHONY D. WILLS,

Defendant.

Case No. 21-cv-01360-SPM

MEMORANDUM AND ORDER

MCGLYNN, District Judge:

Plaintiff Kareem Davenport, an inmate of the Illinois Department of Corrections (“IDOC”), filed this lawsuit pursuant to 42 U.S.C. § 1983 for alleged deprivations of his constitutional rights at Menard Correctional Center. This case is now before the Court for preliminary review of the Complaint under 28 U.S.C. § 1915A, which requires the Court to screen prisoner Complaints to filter out nonmeritorious claims. 28 U.S.C. § 1915A(a). Any portion of the Complaint that is legally frivolous, malicious, fails to state a claim for relief, or requests money damages from an immune defendant must be dismissed. 28 U.S.C. § 1915A(b).

DISCUSSION

Davenport asserts allegations of unconstitutional conditions of confinement at Menard related to small cell size in 2019 and seeks monetary damages (Doc. 1). However, he does not associate any individual with the allegations in his statement of claim. The only named defendant is Anthony Wills, the current Warden at Menard. Davenport states he brought his claim against the current Warden because he does not know who the Warden was at the time of the alleged deprivation of his constitutional rights. (*Id.* at p. 1).

Under Federal Rule of Civil Procedure 8, the Complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief,” FED. R. CIV. P. 8(a)(2) that includes “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 547 (2007). Merely naming a party in the caption of a Complaint is not enough to state a claim against that individual. *Collins v. Kibort*, 143 F.3d 331, 334 (7th Cir. 1998). Further, to state a Section 1983 claim a plaintiff must allege that each defendant was personally involved in the deprivation of a constitutional right. *Matz v. Klotka*, 769 F.3d 517, 528 (7th Cir. 2014) (“[I]ndividual liability under § 1983 requires personal involvement in the alleged constitutional deprivation”). *See also Pepper v. Village of Oak Park*, 430 F.3d 806, 810 (7th Cir. 2005) (“[T]o be liable under § 1983, the individual defendant must have caused or participated in a constitutional deprivation.”). Because Davenport does not make any allegations against an individual that was allegedly involved in a deprivation of his constitution rights, the Complaint fails to state a claim. Accordingly, the Complaint will be dismissed without prejudice and Davenport will be granted an opportunity to file an amended complaint.

MOTION FOR STATUS

Davenport’s request for the status of his case is **DENIED as moot** in light of this Order. (Doc. 10).

DISPOSITION

The Complaint is **DISMISSED without prejudice** for failure to state a claim upon which relief may be granted. The motion for status is **DENIED as moot**. (Doc. 10).

Davenport is **GRANTED** leave to file a First Amended Complaint by **May 9, 2022**. The First Amended Complaint will be subject to review under 28 U.S.C. § 1915A. Should Davenport file a First Amended Complaint, it is strongly recommended that he use the civil rights complaint form designed for use in this District. He should label the form “First Amended Complaint” and

use the case number for this action (No. 21-cv-01360-SPM). Davenport should identify each defendant in the case caption and include sufficient allegations against each defendant to describe what the defendant did or failed to do to violate his constitutional rights, *see DiLeo v. Ernst & Young*, 901 F.2d 624, 627 (7th Cir. 1990) (a successful complaint generally alleges “the who, what, when, where, and how”), and as much as possible, include the relevant facts in chronological order, inserting each defendant’s name where necessary to identify the actors and each defendant’s actions.

While Davenport may use “John Doe” or “Jane Doe” to refer to parties whose names are unknown, he must still follow pleading standards and include a short, plain statement of the case against that party and describe each Doe Defendant and their involvement in the alleged unconstitutional conduct (for example, John Doe did X and Jane Doe did Y). To facilitate Davenport’s compliance with this Order, the Clerk of Court is **DIRECTED** to mail him a civil rights complaint form.

An amended complaint supersedes and replaces the original complaint, rendering the original complaint void. *See Flannery v. Recording Indus. Ass’n of Am.*, 354 F.3d 632, 638 n. 1 (7th Cir. 2004). Therefore, the Court will not accept piecemeal amendments to a previously filed Complaint. The First Amended Complaint must stand on its own, without reference to any previous pleading. Davenport should attach any exhibits that he wishes to submit with the First Amended Complaint.

If Davenport fails to file his First Amended Complaint within the allotted time or consistent with the instructions set forth in this Order, the case will be dismissed with prejudice for failure to state a claim for relief, failure to comply with a court order, and for failure to prosecute his claims. *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994); 28 U.S.C. § 1915(e)(2). The dismissal will count as a

“strike” under 28 U.S.C. § 1915(g).

If judgment is rendered against Davenport and the judgment includes the payment of costs under 28 U.S.C. §1915, he will be required to pay the full amount of the costs. *See* 28 U.S.C. § 1915(f)(2)(A).

Davenport is under a continuing obligation to keep the Clerk of Court informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than 7 days after a transfer or other change in address occurs. Failure to comply with this order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* FED. R. CIV. P. 41(b).

IT IS SO ORDERED.

DATED: April 11, 2022

s/Stephen P. McGlynn
STEPHEN P. MCGLYNN
United States District Judge